IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ petition No. 602 of 2005

Motichand Ram Bujharath Ram ... Petitioner
vs.
Union of India and ors. ..... Respondents

Mr. K. Babu Rajan for Petitioner
Mr. Ravi Shetty with Suresh Kumar for Respondent

CORAM: **F. I. REBELLO & ROSHAN DALVI JJ.**
Date: 29/11/2005

P.C.

Rule. Heard forthwith.

1. By the present petition, amongst others, the Petitioner has sought to challenge the departmental proceedings. The Petitioner had approached CAT, which by order dated 13th February 2004 rejected his original application. Though the Petitioner seeks to challenge that order also in this petition, it appears that by inadvertence it was not included in prayer clause (a). During the pendency of the petition the departmental proceedings were concluded and consequently the Petitioner came to be dismissed from service. That order can be the subject matter of challenge either by preferring a statutory appeal or by preferring an original application before the CAT. In these circumstances the

present petition on account of subsequent events will become infructuous. In the light of that learned counsel for Petitioner seeks to withdraw the petition with liberty to challenge the order of CAT as also the charge-sheet itself.

2. On behalf of the Respondent, though a statutory remedy of appeal is available, a statement is made that they will not object, on the peculiar facts and circumstances, to Petitioner directly approaching CAT and no objection will be raised that the Petitioner has an alternative remedy by way of statutory appeal. Statement made on behalf of the Respondent is accepted.
3. It is no doubt true that the CAT had decided the challenge to the charge-sheet considering that order is being set aside. The Petitioner is allowed to challenge the charge-sheet also and if so, it is for the CAT to decide the same according to law afresh.
4. With the above observations this petition is dismissed as withdrawn with liberty as prayed for.

(F. I. REBELLO J.)

(ROSHAN DALVI J.)